



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

VIA UPS

SEP 02 2014

Mr. Eric Weisbrod
Ashland Performance Materials
2801 South Columbus Boulevard
Philadelphia, PA 19148

**Re: Notice of Violation
Compliance Evaluation Inspection
April 29, 2014
EPA ID No. PAD980552251**

Docket Number: R3-14-NOV-RCRA-22

Dear Mr. Weisbrod:

On April 29, 2014 the U.S. Environmental Protection Agency, Region III ("EPA") conducted a Compliance Evaluation Inspection ("CEI") under Commonwealth of Pennsylvania Hazardous Waste Regulations ("PAHWR") and Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. Sections 6901 et seq. at Ashland Performance Materials (the Facility). A copy of the inspection report is enclosed. Based on that inspection and/or review of other pertinent information, EPA has determined that the Facility is violating regulations promulgated under the PAHWR and RCRA. As a result of this finding, the Agency is issuing this **Notice of Violation (NOV)**. The specific violation(s) are:

1. The inspector observed an open container in the southwest stair well of building 97 which had a used fluorescent bulb. The box was not labeled as universal waste or marked with an accumulation date. Two other containers observed were not labeled as universal waste and both were marked with an accumulation date. The Universal Waste regulations require lamps to be kept in closed containers, labeled and marked with an accumulation date as required in 25 PAHWR §266b [40 CFR 273]. Also one of the dates marked on a container was 3/15/13. Universal waste may be accumulated for no longer than one year from the date it is generated as required in 25 PAHWR §266b [40 CFR 273]. See photos #2 to #3 of the Inspection Report.
2. During the inspector's review of the facility Spill Prevention, Control, and Countermeasures - Contingency Plan he discovered that the home address was not provided for the emergency contact information. The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as the emergency coordinator as required in 25 PAHWR §265a [40 CFR §265.52(d)].

3. During the inspector's review of the hazardous waste weekly inspection records a gap between 12/17/2012 and 01/04/2013 was observed. At least weekly, an owner or operator must inspect areas where hazardous waste containers are stored as required by PAHWR §265a [40 CFR 265.174]. See page 5 of Inspection Report.

Area of Concern

An area of concern located on the 3rd floor in building 76 where two satellite accumulation areas were observed. One 55 gallon and one 20 gallon container were labeled as hazardous waste and marked with waste codes D001 and F003. Both containers were said to be collecting used rags. There is a possibility of collecting greater than 55 gallons of hazardous waste from the same point of generation. A generator who accumulates in excess of 55 gallons of hazardous waste or 1 quart of acutely hazardous waste at or near the point of generation must comply within 3 days with the 90 day accumulation requirements as required by PAHWR §262a [40 C.F.R. 262.34(c)(1)].

Section 3008(a) of RCRA authorizes EPA to take an enforcement action whenever it is determined that any person has violated, or is in violation, of any requirement of RCRA as amended. Such an action could include a penalty of up to \$37,500 per day of violation. In addition, failure to achieve and maintain compliance with the regulations cited in this Notice of Violation may be treated as a repeated offense and may constitute a "knowing" violation of Federal law.

Within fifteen (15) business days of the receipt of this NOV, please submit a response documenting the measures the facility has taken or is taking to achieve compliance with violation noted above or provide an explanation of facts and circumstances that cause you to believe that EPA's determination of the alleged violations are in error. If the compliance measures identified are planned or are on-going, please provide a schedule for when the compliance measures will be completed.

With regard to the Small Business Regulatory Enforcement and Fairness Act (SBREFA), please see the "Information for Small Businesses" memo, enclosed, which might be applicable to your company. This enclosure provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve you of your obligation to respond in a timely manner to an EPA request or other enforcement action, create any rights or defenses under law, and will not affect EPA's decision to pursue this enforcement action. To preserve your legal rights, you must comply with all rules governing the administrative enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action. EPA has not made a determination as to whether or not you [or your company] are covered by the SBREFA.

This Notice of Violation is not intended to address all past violations, nor does it preclude EPA from including any ongoing, including the one cited in this letter, or past violations in any future enforcement action. Any response to this NOV shall be addressed to:

Stephen Forostiak (3LC70)
U.S. Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, PA 19103



Carol Amend, Associate Director
Land and Chemicals Division
Office of Land Enforcement

SEP 02 2014

Date

Enclosure

cc: S. Forostiak (3LC70)
R. Bartholomew (PADEP)

2801 Christopher Columbus Blvd.
(Formerly Delaware Ave.)
Philadelphia, PA 19148-5103
Tel: 215 446-7900, Fax: 215 446-7982

September 15, 2014

VIA Certified Mail

Mr. Stephen Forostiak (3LC70)
U.S. Environmental Protection Agency – Region III
1650 Arch Street
Philadelphia, PA 19103

Re: Notice of Violation dated September 02, 2014
Ashland Performance Materials, division of Ashland Inc. ("Ashland")
2801 South Columbus Blvd.
Philadelphia, PA 19148
EPA ID No. PAD980552251

Dear Mr. Forostiak:

Attached please find Ashland's response to the alleged violations documented in the above referenced Notice of Violation (NOV).

1. The inspector observed an open container in the southwest stair well of building 97 which had a used fluorescent bulb. The box was not labeled as universal waste or marked with an accumulation date. Two other containers observed were not labeled as universal waste and both were marked with an accumulation date. The Universal Waste regulations require lamps to be kept in closed containers, labeled and marked with an accumulation date as required in 25 PAHWR §266b [40 CFR 273]. Also one of the dates marked on a container was 3/15/13. Universal waste may be accumulated for no longer than one year from the date it is generated as required in 25 PAHWR §266b [40 CFR 273]. See photos #2 to #3 of the Inspection Report.

RESPONSE: The containers in the photos have all been labeled properly. The container that had a date listed as 3/15/2013 has been shipped off-site. Our waste vendor has provided us with new containers with lids to eliminate boxes accidentally opening. Universal waste labels are kept next to the containers to ensure they are labeled immediately. All affected personnel have been re-trained on proper universal waste management to ensure this will not be an issue in the future. The universal waste area was added to the weekly inspection to ensure compliance.

2. During the inspector's review of the facility Spill Prevention, Control, and Countermeasures - Contingency Plan he discovered that the home address was not provided for the emergency contact information. The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as the emergency coordinator as required in 25 PAHWR §265a [40 CFR §265.52(d)].

RESPONSE: The Contingency Plan has been updated to include the home addresses for the emergency contacts. The updated plan has been sent to the listed emergency response agencies.

3. During the inspector's review of the hazardous waste weekly inspection records a gap between 12/17/2012 and 01/04/2013 was observed. At least weekly, an owner or operator must inspect areas where hazardous waste containers are stored as required by PAHWR §265a [40 CFR 265.174]. See page 5 of Inspection Report.

RESPONSE: The person assigned to complete the inspection was out on vacation during the referenced period. We have now established a formal procedure to address vacations and other absences of the person responsible for the weekly inspection. The responsible person is now required to send an email to the plant manager indicating who has been delegated the inspection responsibility during the absence. The substitute(s) are all trained on RCRA and the specific inspection and reporting procedures. The plant manager will follow up to make sure the inspection was completed.

Area of Concern

An area of concern located on the 3rd floor in building 76 where two satellite accumulation areas were observed. One 55 gallon and one 20 gallon container were labeled as hazardous waste and marked with waste codes D001 and F003. Both containers were said to be collecting used rags. There is a possibility of collecting greater than 55 gallons of hazardous waste from the same point of generation. A generator who accumulates in excess of 55 gallons of hazardous waste or 1 quart of acutely hazardous waste at or near the point of generation must comply within 3 days with the 90 day accumulation requirements as required by PAHWR §262a [40 C.F.R. 262.34(c)(1)].

RESPONSE: We have removed the twenty gallon container and have instructed relevant personnel that only one container can be in this area.

If you have additional questions concerning these issues, please contact me at (215)446-7923 or Eric Weisbrod at 215-446-7929.

Sincerely,



Herschel Craven
Regional Plant Manager